

RESOLUTION R2015-017

A RESOLUTION of the City Council of the City of Tumwater, Washington, re-adopting amendments to a development agreement related to an application for a site-specific rezone for a 27-acre property located on the northwest corner of Interstate 5 and Israel Road, as more particularly described herein.

WHEREAS, Resolution R2013-011 adopted by the Tumwater City Council on September 3, 2013 approved a development agreement between the City and Tumwater Investment Group LLC (Development Agreement), which was formally executed on October 9, 2013; and

WHEREAS, on August 19, 2014, Tumwater City Council passed Resolution R2014-017, amending the Development Agreement, however, the amended Development Agreement was never formally executed by Tumwater Investment Group LLC and the City desires to repeal said Resolution; and

WHEREAS, in December of 2014, Tumwater Investment Group LLC sold the subject property and transferred its rights and obligations under the Development Agreement to BJR Holdings II, LLC as allowed under Section 19 of the Development Agreement; and

WHEREAS, Section 21 of the Development Agreement provides that the agreement may be amended by written agreement signed by the parties; and

WHEREAS, the City and BJR Holdings II, LLC desire to replace the requirement of constructing 40 residential units or development of a park on the property with requirements for reduced nighttime lighting, adding additional buffering to the trail requirement through the property and dedication of approximately 2.5 acres of the property to the City for tree preservation; and

WHEREAS, the Tumwater City Council held a public hearing on September 15, 2015, to receive public testimony on the proposed amendments to the Development Agreement with the BJR Holdings II LLC; and

WHEREAS, the Tumwater City Council, after considering all of the testimony and evidence, found that the amendments supported the health, safety, and welfare and were in the best interest of the residents of the City of Tumwater and adopted Resolution R2015-012 and the amendment to the Development Agreement (First Amendment) on September 15, 2015; and

WHEREAS, Resolution R2015-012 provided that it would become void if the First Amendment was not fully executed within thirty days and more than thirty

days has transpired between adoption of Resolution R2015-012 and the City's receipt of the signed First Amendment; and

WHEREAS, the City Council desires to accept the First Amendment as executed and finds the time delay was unintentional and harmless;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. Adoption. The First Amendment to the Development Agreement with BJR Holdings II, LLC, attached hereto as Exhibit "A" is hereby adopted and the City Council authorizes the Mayor to sign the same and to take all further and necessary action required by the Development Agreement and the First Amendment.

Section 2. Recording. The City Clerk is directed to record the First Amendment with Thurston County as provided in RCW 36.70A.190.

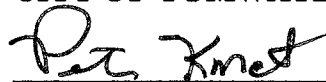
Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this resolution is hereby ratified and affirmed.

Section 4. Severability. The provisions of this resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the resolution, or the validity of its application to other persons or circumstances.

Section 5. Effective Date. This resolution shall become effective immediately upon adoption and signature as provided by law.

RESOLVED this 2nd day of November, 2015.

CITY OF TUMWATER

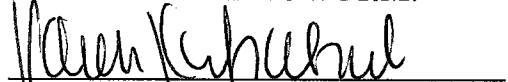


Pete Kmet, Mayor

ATTEST:


Melody Valiant, City Clerk

APPROVED AS TO FORM:


Karen Kirkpatrick, City Attorney